IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Writ Petition NO. 5663 of 2005

Gajanan Govind Talekar ... Petitioner
vs.
State of Maharashtra and ors. ..... Respondents

Mr. A. S. Khandeparkar for Petitioner
Mrs. M. P. Thakur AGP for State

CORAM: **F. I. REBELLO & ROSHAN DALVI JJ.**
Date: 16/11/2005

P.C.

Rule. Heard forthwith.

1. The Petitioner by the present petition seeks to challenge the decision of the Respondent to revoke the permission granted to the Petitioner for quarrying the land purchased by him from its original owner Bhagwan Vishram Dalvi by a registered sale deed dated 13th October 1995. It is contended on behalf of the Petitioner that he is the joint owner of the land bearing Gat No. 1030-A&B. The land was shown in the revenue record as forest some times in the year 1979-80. It is contended that the land in question is a private land

and under the Private Forest Act 30 acres of land was released to the owners while 30 acres land was kept in abeyance and that the said land was released from acquisition for forest. The Petitioner installed a stone crusher in the said land and for that purpose took necessary permissions from the Gram Panchayat. He had also availed of a loan from the Bank of Maharashtra.

2. Various other averments in the petition need not be adverted to, except for the contention that by a Government Circular dated 16th December 2004, which makes a reference to the provisions of the Forest (Conservation) Act, 1980. Pursuant to the said circular, it is the contention of the Petitioner that the Sub-Divisional Officer, Kankavli has issued an order dated 8th July 2005, directing the Revenue Authority to incorporate the entry in respect of the forest.

3. A reply has been filed on behalf of the Respondent no.1

by Shri Makrand Pralhad Deshmukh, Sub- Divisional Officer. It is pointed out that the record shows that the land is a forest land and that even though the land was separated before 1980, for carrying out non-forest activities the permission of the Central Government is required. The 7/12 extract shows that the land is forest land and the Petitioner will have to obtain permission of the Central Government. In para 18 of the said affidavit it is set out that it was suggested to the Petitioner to submit his proposal to the Central Government and in para it is set out that the proposal is being prepared for getting the permission of the Central Government, for the separated land.

4. Mr. Bhausaheb Rajaram Khaire, Deputy Conservator of Forests, Sawantwadi has filed an affidavit. It is pointed out therein that the State Government cannot allow use of forests for non-forest purposes and that it is mandatory on the part of the Petitioner to seek approval under Forest (Conservation) Act 1980 and the Petitioner

will have to apply in the prescribed proforma for carrying out non-forest activities.

Considering the above it is clear that the land in question was accepted as forest land from the very fact that permission was granted under the said act for its release. The land is also described as forest in the records. Under these circumstances this petition is disposed of by issuing the following directions:

i. If the Petitioner has applied to the Respondents in the prescribed form as required under Forest (Conservation) Act 1980 and the rules framed thereunder, the concerned Respondent should forward the proposal to the Central Government within 8 weeks from today;

ii. If the Petitioner has not submitted the proposal in the prescribed form, Respondent no.4 to intimate to the Petitioner within 4 weeks from today to enable the Petitioner to apply in the prescribed form. The Petitioner thereafter to

furnish the necessary particulars, within 6 weeks in which event the Respondents to forward the proposal to the concerned Department of the Central Government.

Rule is made absolute accordingly with no order as to costs.

(F. I. REBELLO J.)

(ROSHAN DALVI J.)